

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 311**

**Senator O'Brien**

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**A BILL**

To amend sections 3310.034 and 3310.51 of the 1  
Revised Code to permit students to concurrently 2  
receive an Educational Choice scholarship or 3  
Pilot Project scholarship and either an Autism 4  
or Jon Peterson Special Needs scholarship. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3310.034 and 3310.51 of the 6  
Revised Code be amended to read as follows: 7

**Sec. 3310.034.** (A) As used in this section: 8

(1) "State scholarship" means any of the following: 9

(a) The educational choice scholarship pilot program under 10  
section 3310.03 of the Revised Code; 11

(b) The expansion of the educational choice scholarship 12  
pilot program under section 3310.032 of the Revised Code; 13

(c) The pilot project scholarship program under sections 14  
3313.974 to 3313.979 of the Revised Code. 15

(2) "Qualifying student" means a student who is eligible 16  
for a state scholarship. 17

(B) Notwithstanding anything in the Revised Code to the contrary, a qualifying student may receive in the same school year both the state scholarship for which the student is eligible and a scholarship under one of the following programs, so long as the student is eligible for that program:

(1) The autism scholarship program established under section 3310.41 of the Revised Code;

(2) The Jon Peterson special needs scholarship program established under sections 3310.51 to 3310.64 of the Revised Code.

The amount a student receives under both scholarships shall not exceed the total amount paid for services or tuition and fees provided to a student under those scholarships.

(C) Notwithstanding anything in section 3310.03 of the Revised Code to the contrary, a student who is the recipient of an autism scholarship under section 3310.41 of the Revised Code or a Jon Peterson special needs scholarship under section 3310.52 of the Revised Code but who is no longer in need of special education and related services under Chapter 3323. of the Revised Code and, therefore, is no longer eligible to receive that scholarship may be considered an "eligible student" for purposes of the educational choice scholarship pilot program under section 3310.03 of the Revised Code, regardless of whether the student is enrolled in a school building described in division (A) (1) or (C) of that section.

~~(B) (D) A student described in division (A) of this section who receives a state scholarship under section 3310.03 of the Revised Code remains an eligible student and may continue to receive that scholarship in subsequent school years until the~~

student completes grade twelve, so long as the student satisfies 47  
one of the following conditions: 48

(1) The student receives a scholarship established under 49  
section 3310.03, 3310.032, or sections 3313.974 to 3313.979 of 50  
the Revised Code as described in division (B) of this section 51  
and continues to meet the eligibility criteria for that 52  
scholarship; 53

(2) The student receives a scholarship established under 54  
section 3310.03 of the Revised Code pursuant to division (C) of 55  
this section and satisfies the requirements specified in 56  
divisions (D) (2) and (3) of section 3310.03 of the Revised Code. 57

**Sec. 3310.51.** As used in sections 3310.51 to 3310.64 of 58  
the Revised Code: 59

(A) "Alternative public provider" means either of the 60  
following providers that agrees to enroll a child in the 61  
provider's special education program to implement the child's 62  
individualized education program and to which the eligible 63  
applicant owes fees for the services provided to the child: 64

(1) A school district that is not the school district in 65  
which the child is entitled to attend school or the child's 66  
school district of residence, if different; 67

(2) A public entity other than a school district. 68

(B) "Child with a disability" and "individualized 69  
education program" have the same meanings as in section 3323.01 70  
of the Revised Code. 71

(C) "Eligible applicant" means any of the following: 72

(1) Either of the natural or adoptive parents of a 73  
qualified special education child, except as otherwise specified 74

in this division. When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the student are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.

(2) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency;

(3) The guardian of a qualified special education child, when a court has appointed a guardian for the child;

(4) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caretaker authorization affidavit under sections 3109.65 to 3109.73 of the Revised Code;

(5) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;

(6) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age.

(D) "Entitled to attend school" means entitled to attend 104  
school in a school district under sections 3313.64 and 3313.65 105  
of the Revised Code. 106

(E) "Formula ADM" has the same meaning as in section 107  
3317.02 of the Revised Code. 108

(F) "Qualified special education child" is a child for 109  
whom all of the following conditions apply: 110

(1) The child is at least five years of age and less than 111  
twenty-two years of age. 112

(2) The school district in which the child is entitled to 113  
attend school, or the child's school district of residence if 114  
different, has identified the child as a child with a 115  
disability. 116

(3) The school district in which the child is entitled to 117  
attend school, or the child's school district of residence if 118  
different, has developed an individualized education program 119  
under Chapter 3323. of the Revised Code for the child. 120

(4) The child either: 121

(a) Was enrolled in the schools of the school district in 122  
which the child is entitled to attend school in any grade from 123  
kindergarten through twelve in the school year prior to the 124  
school year in which a scholarship is first sought for the 125  
child; 126

(b) Is eligible to enter school in any grade kindergarten 127  
through twelve in the school district in which the child is 128  
entitled to attend school in the school year in which a 129  
scholarship is first sought for the child. 130

(5) The department of education and workforce has not 131

approved a scholarship for the child under the ~~educational-~~ 132  
~~choice scholarship pilot program, under sections 3310.01 to~~ 133  
~~3310.17 of the Revised Code, the autism scholarship program,~~ 134  
under section 3310.41 of the Revised Code, ~~or the pilot project-~~ 135  
~~scholarship program, under sections 3313.974 to 3313.979 of the~~ 136  
~~Revised Code~~ for the same school year in which a scholarship 137  
under the Jon Peterson special needs scholarship program is 138  
sought. 139

(6) The child and the child's parents are in compliance 140  
with the state compulsory attendance law under Chapter 3321. of 141  
the Revised Code. 142

(G) "Registered private provider" means a nonpublic school 143  
or other nonpublic entity that has been registered by the 144  
superintendent of public instruction under section 3310.58 of 145  
the Revised Code prior to ~~the effective date of this amendment-~~ 146  
October 3, 2023, or the department of education and workforce on 147  
or after that date. 148

(H) "Scholarship" means a scholarship awarded under the 149  
Jon Peterson special needs scholarship program pursuant to 150  
sections 3310.51 to 3310.64 of the Revised Code. 151

(I) "School district of residence" has the same meaning as 152  
in section 3323.01 of the Revised Code. A community school 153  
established under Chapter 3314. of the Revised Code is not a 154  
"school district of residence" for purposes of sections 3310.51 155  
to 3310.64 of the Revised Code. 156

(J) "School year" has the same meaning as in section 157  
3313.62 of the Revised Code. 158

(K) "Special education program" means a school or facility 159  
that provides special education and related services to children 160

with disabilities. 161

**Section 2.** That existing sections 3310.034 and 3310.51 of 162  
the Revised Code are hereby repealed. 163